

Bryan M. Barber (State Bar No. 118001)
(bbarber@barberlg.com.)
BARBER LAW GROUP
101 California Street, Suite 810
San Francisco, California 94111-5802
Telephone: (415) 273-2930
Facsimile: (415) 273-2940

Attorneys for Plaintiff
FLUKE ELECTRONICS CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
FEB 28 2008
RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

FLUKE ELECTRONICS CORPORATION a
Washington corporation,

Plaintiff,

v.

STEPHEN MANGELSEN, a California resident;

Defendant.

**COMPLAINT FOR BREACH OF
CONTRACT AND DECLARATORY
RELIEF**

Plaintiff Fluke Electronics Corporation ("Fluke") alleges as follows:

THE PARTIES

1. Plaintiff Fluke Electronics Corporation ("Fluke") is incorporated under the laws of the State of Delaware with its principal place of business in State of Washington. Fluke is engaged in the manufacture of electronic test tools and software. Fluke is authorized to and does business in the State of California.

2. Defendant Stephen Mangelsen is an individual residing in Ben Lomond, California. Mr. Mangelsen is a party to a shareholder settlement agreement with Fluke Corporation entered into on September 14, 2007 ("The Agreement").

1 **NATURE OF ACTION**

2 3. This is an action for breach of contract and declaratory relief action pursuant to 28
3 U.S.C. §2201 arising out of Mr. Mangelsen's failure to pay amounts he is obligated agreed to pay
4 pursuant to The Agreement.

5 **JURISDICTION**

6 4. This Court has jurisdiction pursuant to 28 U.S.C. §1332 as the amount in
7 controversy exceeds \$75,000 and the parties are citizens of different states. The Agreement
8 provides that state and federal courts in California shall have jurisdiction over this dispute.

9 **VENUE**

10 5. Venue in this district is proper in that defendant resides in this district and a
11 substantial part of the events or omissions giving rise to the claim occurred in this district.

12 **INTRADISTRICT ASSIGNMENT**

13 6. Pursuant to Local Rules 3-2 and 3-5, this action should be assigned to the San Jose
14 Division because the defendant resides in Santa Cruz County and a substantial part of the events
15 or omissions which give rise to the claim occurred in Santa Cruz County.

16 **FIRST CAUSE OF ACTION**

17 **BREACH OF CONTRACT**

18 7. Plaintiff incorporates the allegations of paragraphs 1 through 6.

19 8. Defendant Stephen Mangelsen was a former substantial shareholder in Raytek
20 Corporation. Mr. Mangelsen was the Executive Vice President and Chief Financial Officer of
21 Raytek Corporation ("Raytek").

22 9. Pursuant to the merger agreement between Fluke Corporation, Raytek, and the
23 former common equity shareholders of Raytek, Mr. Mangelsen and other shareholders received
24 substantial compensation. Mr. Mangelsen was one of the six largest Raytek shareholders who
25 entered into the merger agreement. Pursuant to the merger agreement and sale of stock, Mr.
26 Mangelsen received over three million dollars.

1 10. As a result of a dispute related to certain lawsuits and claims arising from various
2 patent disputes filed against Raytek prior to the merger, the former Raytek shareholders including
3 Mr. Mangelsen were served with a demand for arbitration in April 2006.

4 11. On September 14, 2007 Fluke and the former Raytek equity shareholders
5 including Mr. Mangelsen settled the claim.

6 12. Under the terms of the September 14, 2007 settlement agreement, Mr. Mangelsen
7 was to pay to Fluke Corporation his pro rata share of the total payment or 5.91963%, which
8 equaled \$388,662.78.

9 13. On September 19, 2007, James M. Rupp, General Counsel of Fluke Corporation,
10 sent a letter to Mr. Mangelsen and the other former equity shareholders requesting that they pay
11 the amounts they had promised to pay. Pursuant to The Agreement most of the shareholders
12 have honored the agreement and paid their pro rata shares to Fluke Corporation.

13 14. Despite several demands in writing Mr. Mangelsen has refused to pay any
14 amounts due and owing under The Agreement.

15 15. Fluke has performed all of its obligations under The Agreement.

16 16. Despite receiving valuable consideration in excess of three million dollars in
17 exchange for his shares of Raytek stock and his indemnification obligations, and other
18 consideration for the settlement, Mr. Mangelsen has not contributed any amounts he agreed to
19 pay under The Agreement.

20 17. The Agreement provides that it can be enforced in any state or federal court in
21 California and is to be interpreted pursuant to California law.

22 18. Mr. Mangelsen has breached The Agreement by failing to pay the agreed amount.

23 19. Fluke has been damaged by Mr. Mangelsen's failure to honor The Agreement and
24 pay the amount Mr. Mangelsen promised to pay.

25 20. Fluke has been damaged in amount of \$388,662.78 plus interest and has incurred
26 additional consequential damages as a result of Mr. Mangelsen's breach.

27 21. Fluke has also incurred attorney fees and costs to obtain the benefit of the bargain
28 and force Mr. Mangelsen to make payment of the sums he agreed to pay.

SECOND CAUSE OF ACTION
FOR DECLARATORY RELIEF

22. Plaintiff realleges paragraphs 1 through 6 and paragraphs 8 through 21.

23. Fluke and defendant Mr. Mangelsen entered into a settlement agreement on September 14, 2007("The Agreement"). Pursuant to The Agreement Mr. Mangelsen was required to make a payment to Fluke.

24. Despite several requests, Mr. Mangelsen has refused to make the payment under The Agreement.

25. Therefore an actual case or controversy has arisen under The Agreement as Mr. Mangelsen has not paid and refuses to pay the amounts he promised to pay and that Fluke contends is owed by Mr. Mangelsen. Fluke requests that pursuant to 28 U.S.C. §2201 this Court declare the rights and responsibilities of Fluke and Mr. Mangelsen under The Agreement.

REQUEST FOR RELIEF

1. As to the First Cause of Action Fluke requests that this Court enter judgment in its favor for:

- a. \$388,662.78 plus interest from September 19, 2007;
- b. Consequential damages to be proven at trial;
- c. Attorneys fees and costs;
- d. Such other relief as the Court deems necessary and proper.

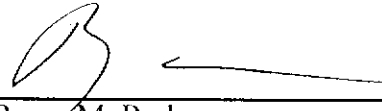
2. As to the Second Cause of Action that this court enter judgment for Fluke.

3. Alternatively this Court determine the rights and responsibilities of Mr. Mangelsen and Fluke.

1 DATED: February 27, 2008

Respectfully submitted.

2 BARBER LAW GROUP

3 

4 _____
5 Bryan M. Barber
6 Attorney for Plaintiff
7 FLUKE ELECTRONICS CORPORATION

8 2022719

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28